

haven't even seen them yet. This is vile behavior that is beneath the dignity of this institution. If Republicans continue down this path of destruction while working on this process, it is going to reverberate in the wrong direction for decades to come. They have to get their senses back.

Mr. President, I ask unanimous consent that the CNN article written by Ted Barrett, to which I referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CNN, Mar. 7, 2016]

SUPREME COURT NOMINEE WOULD BE A
'PIÑATA,' CORNYN SAYS

(By Ted Barrett)

The No. 2 Senate Republican warned Monday that potential nominees to the Supreme Court should consider the battle they will be forced to endure if they are picked for the post, suggesting a high-stakes slugfest could damage their reputations in a fruitless pursuit of the top court.

"I think they will bear some resemblance to a piñata," said Sen. John Cornyn of Texas.

"What I don't understand is how someone who actually wants to be confirmed to the Supreme Court would actually allow themselves to be used by the administration in a political fight that's going to last from now until the end of the year," Cornyn told a small group of reporters in the Capitol.

He added: "Because there is no guarantee, certainly, after that time they're going to look as good as they did going in."

Cornyn, a member of the Judiciary Committee, adamantly opposes confirming President Barack Obama's Supreme Court pick to replace the late Justice Antonin Scalia, a conservative stalwart on the bench who died last month.

Obama is expected to name a replacement any day.

"There is no question Democrats would do the same thing if the shoe was on the other foot based on their prior conduct and I don't think the voters are really interested in seeing the ideological balance of the court changed for the next 30 years by a lame duck president," Cornyn said.

The tension between the parties was on full display on the Senate floor when Democratic Leader Harry Reid continued his weeks-long tirade against the Republican chairman of the Judiciary Committee, Chuck Grassley of Iowa, for vowing not to schedule a confirmation hearing for an eventual nominee.

"He is allowing himself and his committee to be manipulated by the Republican leader for narrow, partisan warfare. He is taking his orders from the Republican leader and, sadly, Donald Trump," Reid said. "Donald Trump on this issue, when asked about it, his words were three: 'Delay, delay, delay.' Grassley must have been listening."

Democrats believe that under enough pressure Grassley, who is up for re-election, could crumble and open the door to a hearing and a vote for a nominee. But Grassley didn't sound like he was ready to fold when he responded to Reid.

"The tantrums on the other side continue," said Grassley. "But I guess it shouldn't surprise anybody as everyone knows around here nothing makes the minority leader more mad than when his side is forced to play by its own rules."

Grassley also compared Obama to King George III for "executive overreach," which he said frustrated the founding fathers then and frustrates the Senate Republicans now.

Also Monday, Reid met in his Capitol office with Patty Judge, a Democrat and former lieutenant governor of Iowa who just announced she will challenge Grassley this fall.

Cornyn said he has no doubts about the 82-year-old Grassley's ability to withstand political pressure from Democrats.

"They don't know Chuck Grassley," Cornyn said. "He's like a rock."

Interest groups on the left and right are lined up to champion their causes in what is expected to be an expensive and protracted battle that could undermine the candidate, no matter how well qualified or liked he or she is.

"As a practical matter, there would be no requirement on the part of a Democratic president to reappoint the same person. So I think they need to realize we're serious about the position we've taken," Cornyn said.

Mr. REID. I yield the floor and ask the Chair to announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business for 1 hour, equally divided, with Senators permitted to speak therein for up to 10 minutes each, with the Democrats controlling the first half and the majority controlling the final half.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILLING THE SUPREME COURT VACANCY

Mr. DURBIN. Mr. President, several weeks ago, the untimely passing of Supreme Court Justice Antonin Scalia created a vacancy on the Supreme Court, which now has only eight Justices. It called into question the constitutional responsibility of the President of the United States when such a vacancy exists and the constitutional responsibility of this Senate.

This morning in the Washington Post, there was speculation about six possible nominees the President could send to the Senate. It was speculation in the paper, and we don't know if any one of those would actually be the nominee suggested by the President, but it is very obvious—and having spoken with the President personally on this issue, I know he is carefully weighing the options.

Why will the President move forward on this nomination? Because the Con-

stitution requires it. In article II, section 2, it says the President shall appoint a nominee to fill a vacancy on the U.S. Supreme Court—shall; not may, shall appoint—and the Senate shall perform its advice and consent duties with respect to that nomination. So there are two constitutional responsibilities: for the President to suggest a nominee and for the Senate to act on that nominee.

There have been instances in American history where argument could be made that that constitutional responsibility should be ignored or at least delayed. One that comes to mind dates back to 1942. On October 3, 1942, a vacancy arose on the Supreme Court of the United States. On that day, Justice James Byrnes on the Supreme Court resigned his seat to become Director of the Office of Economic Stabilization in the Roosevelt administration.

On January 11, 1943, President Roosevelt nominated Wiley Rutledge, a Kentucky native and former dean of the University of Iowa College of Law, to fill that vacancy. At this point in 1943, the United States was fully engaged in the Second World War. When the President sent up this nomination, battles were raging in Europe, Asia, Africa, and in the Atlantic and the Pacific. It was unclear whether we would prevail or the enemy would prevail. Each day brought alarming, stunning news about developments in the war.

Three days after making his Supreme Court nomination, President Roosevelt flew to Morocco to join Churchill and de Gaulle at a Casablanca conference on the future of the war. At this conference, the Allies coordinated their strategy against the Axis powers and decided to launch an offensive in Sicily and in Italy.

On January 27, 1943, American bombers from the Eighth Air Force conducted the first American air raid over Germany. On January 30, Japanese aircraft torpedoed and sank a cruiser named the USS *Chicago* in the South Pacific. Sixty-two men lost their lives. Over a thousand survived due to a daring and swift rescue.

The Nation was clearly engaged in war. There was every reason in the world for the President and even the Senate to say: This is no time to talk about a Supreme Court vacancy. Instead, the President and the Senate, even in the midst of World War II, understood their obligation under the Constitution. The Senate Judiciary Committee held a hearing for Rutledge on January 22, 11 days after his nomination had been sent to the Hill by President Roosevelt. The committee reported Rutledge's nomination to the floor on February 1, and he was confirmed by the full Senate on February 8, 1943, 28 days after his nomination.

Mr. President, I wanted to put this set of facts on the record to make it clear that there is absolutely no excuse for what the Senate Republicans are doing with this vacancy. There is no excuse for the Senate Republicans to